

Notice of Allowability

Application No.

09/669,418

Examiner

Chih-Min Kam

Applicant(s)

DULEBOHN ET AL.

Art Unit

1653

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 9/09/03.
2. ☒ The allowed claim(s) is/are 1-5, 8-11, 13 and 15-24.
3. ☐ The drawings filed on _____ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
 - * Certified copies not received: _____.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
 - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No. _____.
 - (b) ☐ including changes required by the proposed drawing correction filed _____, which has been approved by the Examiner.
 - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. _____.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- | | |
|--|--|
| 1 <input type="checkbox"/> Notice of References Cited (PTO-892) | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 6 <input checked="" type="checkbox"/> Interview Summary (PTO-413), Paper No. <u>1203</u> . |
| 3 <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No. _____ | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit of Biological Material | 8 <input type="checkbox"/> Examiner's Statement of Reasons for Allowance |
| | 9 <input type="checkbox"/> Other |

Christopher S. F. Low
CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600

Art Unit: 1653

An **Examiner's Amendment** to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with M. Scott McBride on December 17, 2003.

Examiner's Amendments to the Claims:

Cancel claim 14.

Claims 1-5 and 16 have been amended, and a new claim 24 has been added as follows:

1. (Currently amended) A method of reducing photooxidation or air oxidation in a food product comprising the step of dispersing within the food product an antioxidation composition comprising a mixture of the following components:

(a) one or more [an] amino acids selected from the group consisting of lysine[, and aspartic acid[, and mixtures thereof];

(b) one or more [a] metal oxides selected from the group consisting of CaO, MgO[, and ZnO[, and mixtures thereof]; and

(c) one or more [an] organic acids selected from the group consisting of malic acid, citric acid[, and succinic acid[, and mixtures thereof];

wherein the antioxidation composition is added in an amount between 0.001% and 2% (w/w) of the food product, [wherein] and the food product includes an amount of the antioxidation composition, which is effective to reduce photooxidation or air oxidation [is reduced] of the food product.

2. (Currently amended) The method of claim 1, wherein the molar ratio of the amino acid to metal oxide is between 0.01 and 20.

3. (Currently amended) The method of claim 1, wherein the molar ratio of organic acid to metal oxide is between 0.01 and 20.

4. (Currently amended) The method of claim 2, wherein the molar ratio of the amino acid to metal oxide is between 0.1 and 4.

5. (Currently amended) The method of claim 2, wherein the molar ratio of organic acid to metal oxide is between 0.1 and 4.

Art Unit: 1653

16. (Currently amended) A method of reducing photooxidation or air oxidation in a food product comprising the step of dispersing within the food product an antioxidation composition, wherein the antioxidation composition is formed from a mixture comprising the following components:

(a) one or more [an] amino acids selected from the group consisting of lysine[,] and aspartic acid[, and combinations thereof];

(b) one or more [a] metal oxides selected from the group consisting of CaO, MgO[,] and ZnO[, and combinations thereof]; and

(c) one or more [an] organic acids selected from the group consisting of malic acid, citric acid[,] and succinic acid[, and combinations thereof];

wherein the antioxidation composition is added in an amount from 0.001% to 2% (w/w) of the food product, [wherein] and the food product includes an amount of the antioxidation composition, which is effective to reduce photooxidation or air oxidation [is reduced] of the food product.

24. (New) The method of claim 16, wherein the antioxidation composition is a 65% (w/w) aqueous solution formed from a mixture comprising lysine:magnesium oxide:malic acid: citric acid with a molar ratio of 1.49:1:2.16:0.72.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chih-Min Kam whose telephone number is (703) 308-9437. The examiner can normally be reached on 8.00-4:30, Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low, Ph. D. can be reached on (703) 308-2923. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 308-4227 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0196.

Application/Control Number: 09/669,418

Page 4

Art Unit: 1653

Chih-Min Kam, Ph. D. *CMK*
Patent Examiner

December 17, 2003